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Abbreviations and acronyms

ANA	Annual National Assessments
CDG	Care Dependency Grant
CGE	Commission on Gender Equality
CHH	Child-headed Household
COP	Child Online Protection
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSG	Child Support Grant
DAC	Department of Arts and Culture
DBE	Department of Basic Education
DCS	Department of Correctional Services
DHA	Department of Home Affairs
DHET	Department of Higher Education and Training
DOH	Department of Health
DOJCD	Department of Justice and Constitutional Development
DORD	Department of Rural Development
DOSR	Department of Sport and Recreation
DPME	Department of Performance, Monitoring and Evaluation
DWCPD	Department of Women, Children and People with Disabilities
EC	Eastern Cape Province
ECD	Early Childhood Development
ECE	Early Childhood Education
FCG	Foster Care Grant
FET	Further Education and Training
FPB	Film and Publication Board
GDP	Gross Domestic Product
GET	General Education and Training
HR	Human Resources
ICC	Infrastructural Coordination Committee
ICTs	Information and Communication Technologies
KZN	KwaZulu-Natal Province
LiEP	Language in Education Policy
M&E	Monitoring and Evaluation

MINMEC	Minister and Members of Executive Council
NEEDU	National Education Evaluation and Development Unit
NELDS	National Early Learning and Development Standards
NPA	National Prosecuting Authority
NPAC	National Programme of Action for Children
NPACSC	National Programme of Action Steering Committee
NPR	National Population Register
OPAC	Optional Protocol on the Involvement of Children in Armed Conflict
OPSC	Optional Protocol on the Sale of Children, Child Prostitution and Pornography
ORC	Office on the Rights of the Child
PDOU	Planning and Delivery Oversight Unit
PEIP	Prevention and Early Intervention Programmes
PMTCT	Prevention of Mother-to-child Transmission
SAHRC	South African Human Rights Commission
SALGA	South African Local Government Association
SALRC	South African Law Reform Commission
SAPS	South African Police Service
UNICEF	United Nations Children's Fund

I. General information

1. This Common Core Document is prepared mindful of the harmonised reporting guidelines issued by the Office of High Commissioner for Human Rights in May 2006 (HRI/MC/2006/3). This Common Core Document endeavours to provide information of a general and factual nature that is relevant to the appreciation of South Africa's obligations under the various United Nations treaties to which it is party. The Common Core Document must be read together with the treaty-specific reports that South Africa has submitted under each of the treaties to which it is party. It is only such a reading that would properly reveal the specific steps South Africa has taken in order to meet its obligations.

2. This Common Core Document commences with a description of the demographic, social, political and economic structure of South Africa. A brief history of South Africa, going back to pre-colonial times, is also provided, as is an introduction to the South African legal system, with the emphasis on the place and role of international human rights law in South Africa.

A. Demographic, economic, social and cultural characteristics

1. Brief history

3. Civilisation in South Africa can be traced back to the early centuries, as evidenced by the archaeological findings at the Sterkfontein Caves in the Magaliesberg outside Johannesburg. The country later became home to diverse indigenous people.

4. In 1652 Jan van Riebeeck established a refreshment station at the Cape of Good Hope on behalf of the Dutch East India Company. The Dutch transported slaves from Indonesia, Madagascar and India as labour for the colonists in Cape Town. As they expanded, the Dutch settlers met the migrating Xhosa people in the region of the Fish River. A series of wars, called the Cape Frontier Wars, were fought over conflicting land and livestock interests. Colonial powers governed South Africa in whole or in part from 1652 to 1910. The Dutch East India Company was empowered to administer law and order in the areas under its control. British colonies (the Cape and Natal) and Boer republics (the Transvaal and Free State) established regimes of white power, wealth and privilege at the expense of the black people, who were consigned to poverty and powerlessness.

5. In 1948 the National Party officially introduced a system of segregation known as apartheid. New legislation classified inhabitants into racial groups ("black", "white", "coloured", and "Indian"), and residential areas were segregated, sometimes by means of forced removals. Black people were deprived of their citizenship, legally becoming citizens of one of ten tribally-based self-governing homelands called Bantustans, four of which became nominally independent states. The government segregated education, medical care and other public services, and provided black people with services inferior to those of white people. "Coloureds" and "Indians" were also discriminated against, excluded from the right to vote, and marginalised.

6. The first apartheid law was the Population Registration Act 30 of 1950, which formalised racial classification and introduced an identity card for all persons over the age of 18 that specified their racial group. Official boards were established to come to a conclusion on those people whose race was unclear. The second legal pillar of apartheid was the Group Areas Act of 30 of 1950. Until then, most settlements had people of different races living side by side. This Act put an end to mixed residential areas and determined where one lived according to race. Each race was allotted its own area, and the Act was later used as the basis for the forced removal of thousands of black people.

7. The Prohibition of Mixed Marriages Act 55 of 1949 prohibited marriage between persons of different races, and the Immorality Act 21 of 1950 made sexual relations with a person of a different race a criminal offence. The Suppression of Communism Act 44 of 1950 was introduced to prohibit the advocacy of communism and to outlaw the Communist Party. The Internal Security Act of 1950 was used further to suppress the Communist Party, African National Congress and the Pan-Africanist Congress. These organisations were later banned in terms of the Unlawful Organisations Act 34 of 1960.

8. The Bantu Authorities Act 68 of 1951 created separate government structures for black citizens and was the first piece of legislation established to support the government's plan of separate development in the Bantustans. Changes in education came with the Bantu Education Act 47 of 1953, which separated education and placed the education of Africans under the direct supervision of the Minister of Native Affairs with the explicit purpose of ensuring that they received a separate and consequently inferior education. In 1959 separate universities were created for black, coloured and Indian people. Existing universities were not permitted to enrol new black students. The Afrikaans Medium Decree of 1974 required the use of Afrikaans and English on an equal basis in high schools outside the homelands. The Public Safety Act 3 of 1953 empowered the government to issue emergency regulations that were used to detain political activists indefinitely without trial, thereby curtailing their right to liberty. These measures also allowed the torture of political activists during their period of detention.

9. Under the Separate Amenities Act 49 of 1953, municipal grounds could be reserved for a particular race, creating, among other things, separate beaches, buses, hospitals, schools and universities. Signboards such as "whites only" applied to public areas, including even park benches. Black people were provided with services greatly inferior to those of whites, and, to a lesser extent, to those of Indian and coloured people. The Job Reservation Act of 1956 reserved a number of occupations for white people and built on the previously established white labour policy.

10. The Promotion of Bantu Self-Government Act 46 of 1959 entrenched the National Party's policy of nominally independent "homelands" for black people. So-called "self-governing Bantu units" were proposed: these would have devolved administrative powers, with the promise of later autonomy and self-government. The Bantu Investment Corporation Act of 1959 set up a mechanism to transfer capital to the homelands in order to create employment there. The Black Homeland Citizenship Act of 1970 marked a new phase in the Bantustan strategy. It changed the status of black people living in South Africa so that they were no longer citizens of South Africa but one of the ten autonomous territories. The aim was to ensure a demographic majority of white people within South Africa by having all ten Bantustans choose "independence". Pass Laws required blacks to carry pass books (similar to passports) to enter the "white" parts of the country.

11. On 21 March 1960 the security forces shot unarmed demonstrators who had gathered to protest against pass laws in Sharpeville, an event known as the Sharpeville Massacre. Sixty-nine people of African descent were killed and at least 180 injured. This signalled the start of armed resistance in South Africa, and prompted worldwide condemnation of apartheid policies. Young people in schools and colleges had also joined the resistance, a development which contributed to the 1976 Soweto Uprising when school children protested against the introduction of Afrikaans into their curriculum.

12. The struggle against apartheid intensified in the late 1980s. The establishment of the United Democratic Front in 1983 marked the creative utilisation of political and legal spaces to complement the armed struggle. Sanctions and other forms of pressure reinforced the efforts of the South African people. This sustained opposition to apartheid culminated in the release of Walter Sisulu and other political leaders who had been imprisoned for nearly three decades. In February 1990, banned political parties were unbanned. When

Nelson Mandela walked out of prison in 1990, the stage was set for formal negotiations with the leadership of the liberation movement. Negotiations for the abolition of apartheid were conducted under the guidance of the Convention for a Democratic South Africa (CODESA).

13. On 27 April 1994 an Interim Constitution was adopted as the first step towards democracy in South Africa. It brought about several fundamental changes in the country's political and legal structure. For example, for the first time in South Africa's history the franchise and associated political and civil rights were accorded to all citizens irrespective of race. Moreover, the doctrine of parliamentary supremacy was replaced by the doctrine of constitutional supremacy.

14. The first democratic elections in South Africa were held in April 1994. Later that year Nelson Mandela was inaugurated as the first democratically elected president. In 1996, after two years of further debate and negotiations, the final South African Constitution was adopted. The new democratic government introduced transformation and human rights laws aimed at giving effect to values embodied in the Constitution. The government has put in place legal frameworks that allow people of different races and cultures to have equal opportunities and freedoms.

15. Despite the fact that many of the apartheid laws were removed from the statute books, the social consequences of such laws and policies continue to define the South African economic, social and cultural landscape. Racially defined economic and social inequalities remain part of the South African life, with the major part of the land in the country remaining in the hands of the white beneficiaries of the Land Act 27 of 1913. All other economic and social indicators, including control of the economy and income distribution, access to jobs and other life opportunities, are still racially defined or at any rate influenced by dynamics connected to race. In post-apartheid South Africa, unemployment has been extremely high. Although many blacks have risen to the middle or upper classes, the overall unemployment rate of blacks is still worse than that of whites, notwithstanding that poverty among whites, previously rare, has increased substantially.

16. Apartheid has left South Africa with high levels of inequality, unemployment and poverty. Consequently, its Gini coefficient is among the highest in the world. In spite of the economic growth that has been recorded since 1994, millions of predominantly black people remain in poverty and the human rights espoused in the Constitution continue to elude them. In response, the democratic government has put together programmes aimed at redressing the imbalances inherited from the apartheid system.

17. While economic and racial inequality remains a reality in South Africa, there is significant progress in advancing the economic and social rights of the vast majority of African people who suffered under the apartheid rule. Since 1994, the housing programme delivered 2.8 million housing units, the school enrolment rate is on the increase, and by 2009 over 98% of children were enrolled in schools. Progress has been made in the health sector, particularly in the acceleration of the fight against HIV/AIDS, malaria and TB. Access to HIV testing and treatment for mothers and children has improved recently, resulting in a more than 50% reduction in HIV-transmission from mother to child. Furthermore, there is also a notable reduction in the maternal mortality rate. The Government has established the National Health Insurance with the objective to ensure universal access to health services. Access to electricity has been extended to many households, both in urban and rural areas. Social security has been extended to many persons and households. Government is working on strategies to fight poverty and unemployment. Land redistribution is still a huge challenge despite advances made by the Government in this regard. In 2010, access to clean water drinking water reached 98% of the population, and access to sanitation was reduced from 52% to 21%.

18. The Government has made great strides in implementing its Gender Equity Strategy and policies to reach its target of 50% female representation at all levels of government. Equitable representation of women in the private sector remains a challenge. Representation of women in the judiciary is still a major challenge, but efforts are under way to turn this around. In 2009, the Government established the Department of Women, Children and People with Disabilities to mainstream and play an oversight role over gender. The Comprehensive Rural Development Strategy is in place to advance efforts in empowering rural women. A number of statutory laws and court judgments have addressed the discrimination suffered by women, especially their exclusion from full enjoyment of civil, political, economic, social and cultural rights. However, much needs to be done to ensure substantive enjoyment of these rights by women and women with disabilities.

19. An integrated Crime Justice System has been introduced to deal with crime. The fight against crime and corruption, at all levels of society, is a governmental priority aimed at ensuring that all persons feel, and are, safe in the country. Strides have been made in implementing the integrated criminal justice strategy. There is a marked reduction of case-backlog as a result of the implementation of the Case Backlog Strategy. The jurisdiction of Regional Courts has been increased to reduce the pressure on High Courts and deal with case backlogs in particular. The 2011 National Victims of Crime Survey findings supported trends that showed a decrease in levels of crime. A number of mechanisms have been set up to fight corruption. The level of gender violence, especially violence against elderly women and the girl child, is high. LGBT persons are also victims of violence. The Government has set up an Inter-Ministerial Committee to look at the causes of violence against women. Furthermore, a National Task Team has been established to address cases of violence committed against LGBT persons.

2. The population and its demographic and ethnic characteristics

20. Post-apartheid South Africa has been described as the "rainbow nation" for its diversity in terms of race, ethnicity and language. The term is meant to encapsulate the multiracialism and unity of the diverse peoples in a country that was once identified by legal differentiations based on race.

21. The country is located at the southern tip of Africa and shares its northern borders with Namibia, Botswana, Zimbabwe, Mozambique and Swaziland. Lesotho is completely enclosed by South Africa. South Africa occupies 1,220,813 square kilometres and has nine provinces.

Table 1
Land area and population by province, Census 2011

Province	*Area km²*	*Population estimate*	*% of total population*
Eastern Cape	168,966	6,562,053	12.7
Free State	129,825	2,745,590	5.3
Gauteng	18,178	12,272,263	23.7
KwaZulu-Natal	94,361	10,267,300	19.8
Limpopo	125,754	5,404,868	10.4
Mpumalanga	76,495	4,039,939	7.8
Northern Cape	372,889	1,145,861	2.2
North West	104,882	3,509,953	6.8
Western Cape	129,462	5,822,734	11.2
Total	**1,220,813**	**51,770,560**	**100.00**

22. The estimated population of South Africa is 51,770,560 people.

Table 2
Population by sex, Census 2011

Male	*Female*	***Total***
25,188,791	26,581,769	**51,770,560**

Table 3
Population by population group, Census 2011

Population group	*Number*	*% of total population*
African	41,000,938	79.6
Coloured	46,154,01	9.0
Indian/Asian	12,86,930	2.5
White	4,5,86838	8.9
Total	**50,586,757**	**100.0**

Table 4
South Africa mid-year estimates for 2011, published in 2013

Population	
Percentage of females in population	51.4%
Percentage of males in population	48.6%
Population younger than 15	30%
Population,15-64	65.1%
Population, 65 or older	4.9%
Life expectancy at birth	
Male	56.1 years
Female	60 years
Crude birth rate	21.6
Fertility rate	2.44
Population growth (2010-2011)	1.33%
Religion	Christian 80.9%; no religion 15.3%; Islam 1.5%; Hinduism 1.2%; other faith 0.6%; African traditional churches 0.3%; Judaism 0.2%
Language	11 official languages

3. Social, economic and cultural characteristics

Table 5
Distribution of household consumption expenditure on select expenditure groups, 2009

	Rand per household (12 month-period)	%
Food and non-alcoholic beverages	13,914	19.3
Clothing and footwear	3,474	4.8
Housing, water, electricity, gas and other fuels	17,922	24.9
Health	950	1.3
Education	2002	2.8
Transport	10,978	15.3

Table 6
Social characteristics, 2011

Social characteristic	*Measure*
Infant mortality rate (per 1,000 live births)	37.9
Percentage of children under the age of 5 years who are underweight (2008)	8.7%
Maternal mortality ratio (per 100,000 live births – 2008)	410
Crude death rate (per 1,000 people)	11.7
Approximate medical terminations of pregnancy as a proportion of live births (2006)	8%
Percentage of woman between the ages of 15 and 49 using some type of contraception method (2005-2009)	60%
Percentage of people living with HIV	10.64%

23. HIV, AIDS and tuberculosis contribute significantly to the burden of disease faced by South Africans. This is particularly true of poor and vulnerable groups. The most important strategy to combat these diseases is the HIV and AIDS Counselling and Testing (HCT) Campaign. It is based on the principle that, once people know their status, they will potentially experience the benefits of prevention and early access to treatment.

Table 7
HIV-prevalence estimates and the number of people living with HIV, 2001-2011

	Prevalence			*Incidence*	*HIV population*
Year	*Women 15-49*	*Adult 15-49*	*Total population*	*Adult 15-49*	*(millions)*
2006	18,9	16,6	10,2	2,11	4,87
2007	18,9	16,5	10,2	1,54	4,95
2008	18,9	16,4	10,3	1,43	5,02
2009	19,1	16,4	10,4	1,45	5,13
2010	19,3	16,5	10,5	1,43	5,26
2011	19,4	16,6	10,6	1,38	5,38

Table 8
Ten leading underlying causes of death, 2010

Disease	*Rank*	*Number of deaths*	*%*
Tuberculosis (A15–A19)	1	62,827	11.6
Influenza and pneumonia (J09–J18)	2	39,027	7.2
Intestinal infectious diseases (A00–A09)	3	27,383	5.0
Other forms of heart disease (I30–I52)	4	25,827	4.7
Cerebrovascular diseases (I60–I69)	5	24,664	4.5
Diabetes mellitus (E10–E14)	6	21,475	3.9
Human immunodeficiency virus (HIV) disease (B20–B24)	7	18,325	3.4
Hypertensive diseases (I10–I15)	8	14,890	2.7
Chronic lower respiratory diseases(J40–J47)	9	13,099	2.4
Other viral diseases (B25–B34)	10	12,332	2.3
Other natural causes		235,630	43.3
Non-natural causes		48,377	8.9
All causes		543,856	100

Table 9
Education in 2011

	32:8	
Learner-teacher ratio (2005)	*Male*	*Female*
Net attendance ratio in primary school (2005-2011)	99%	99.1%
Net attendance ratio in secondary school (2005-2011)	93.9%	92.6%
Youth literacy rate (15-24 years) (2004-2008)	96%	98%

Table 10
Employment

Employment	*%*
Total adult literacy rate (2005-2008)	89%
Unemployment rate (2011)	24.9%
Estimated proportion of work force registered with trade unions (2011)	29.0%
Labour participation rate (2002)	58.8%
Total adult literacy rate (2005-2008)	89%
Unemployment rate (2011)	25.7%
Estimated proportion of work force registered with trade unions (2011)	25%
Labour participation rate (2002)	57.5%

Table 11
Estimated work force per industry and gross earnings, quarter ending June 2011

Industry	*Number of Employees (000)*	*Gross earnings per industry (Rands)*
Mining and quarrying	517	20,445
Manufacturing	1,148	40,268
Electricity, gas and water supply	60	4,390
Construction	419	11,884
Wholesale and retail; repair of motor vehicles, motor cycles and personal and household goods; hotels and restaurants	1,659	42,698
Transport, storage and communication	357	19,120
Financial, insurance, real estate, business service	1,818	77,469
Community, social and personal service	2,322	107,372
Total	**8,300**	**323,646**

24. South Africa's economic growth has been tied largely to mining and agriculture, even though manufacturing has also played a crucial role. Economic growth, however, has fluctuated over the years as a result of diverse factors. For example, in the 1960s and early 1970s the country experienced substantial economic growth on the back of significant improvements in manufacturing and agriculture. However, economic growth slowed down in the late 1970s and early 1980s, partly because of a decline in gold revenues as well as rising prices for imports. Overall, the country experienced negligible growth in the 1980s, and the economy largely stagnated up to the early-1990s. The decline in the economy's growth generally led to a decline in living standards. Positive growth was, however, recorded from 1993, albeit weak, and this strengthened in 1994. Thereafter, economic growth remained positive until 2012, except for a decline in real GDP in 2009, largely as a result of the global economic crisis. In spite of the economic growth the country experienced over the years, millions of black people remain stuck in poverty.

Table 12
Economy, 2011

CPI (December 2011)	6.1% y/y
PPI (December 2011)	9.8% y/y
GDP (4th quarter 2011)	3,3% q/q seasonally adjusted and annualised
GNI (2011) (current prices)	$393,1 billion

Table 13
Average annual per capita household income by income group and population group of head of household

	Population group of household head				
Income group	*Black*	*Coloured*	*Indian*	*White*	***Total***
R0-800	464	455	273	96	**447**
R80-1,200	1,002	1,009			**1,002**
R1,20-2,500	1,878	1,993	1,507	2,234	**1,881**
R2,50-6,000	4,095	4,428	4,009	4,624	**4,116**
R6,00-16,000	10,039	10,499	10,777	11,248	**10,132**
R16,000-plus	51,303	52,516	67,219	123,557	**72,085**
Total	**19,637**	**30,350**	**50,063**	**113,976**	**32,667**

25. The preceding table indicates the average annual household income per capita by income group and population group of the head of household in 2009. This was calculated by dividing the total income earned by household members within a household by the number of people in each household. The results indicate that, on average, households earn about R32,667 per capita per annum. Black-headed households are worse-off (R19,637) compared to households headed by other population groups. The annual average for white-headed households amounts to R113,967 per capita, which is more than five times greater than for black-headed households. The difference between blacks and whites is more pronounced for high- than low-income groups. This gives some indication of the low levels of income available per person in a household for food, clothing, transport and school fees.

II. Constitution, political and legal structure

A. Constitutional structure

26. In contrast to the country's previous constitutions, the 1996 Constitution heralded the commencement of a fundamentally different legal and political order. The 1996 Constitution was guided by the following basic principles: constitutionalism; the rule of law; democracy and accountability; separation of powers and checks and balances; cooperative government; and devolution of power. Some of the basic principles were expressly entrenched in the text of the Constitution while others, such as constitutionalism and separation of powers, are implicit in the text. More importantly, the basic principles tie the constitutional provisions together and shape them into a framework that defines the new constitutional order. These principles, therefore, influence the interpretation of many other provisions in the Constitution. The Constitution also shapes ordinary law; it informs the way legislation is drafted and interpreted by the courts, and the way the courts develop the common law.

27. The Constitution is founded on the values of human dignity, equality, human rights and freedoms, non-racialism and non-sexism, supremacy of the Constitution and the rule of law. It is further based on universal adult suffrage, a national common voters' roll, regular elections and a multi-party system of democratic government to ensure accountability, responsiveness and openness. The Constitution guarantees democracy by giving every person over 18 years of age the right to vote and ensuring one voters' roll for all adult citizens, regular elections and a multi-party system of government. The Constitution directs

that parliamentary elections must be held once every five years. It explains how Parliament and other legislatures work, how national and provincial executives are chosen, and how the courts work. The Constitution also establishes six independent state institutions to support democracy.

28. Chapter 2 of the 1996 Constitution contains South Africa's Bill of Rights, and it is arguably the part of the Constitution that has made the greatest impact on South Africans in recent years. These provisions deal with the rights to equality, human dignity, life and privacy, among others, as well as freedom of religion and expression. The Bill of Rights also deals with labour relations, children, education and the legal process. Compared to ordinary legislation, amending the Constitution is deliberately subjected to a higher threshold. Section 74(2) states that bills amending the Constitution require a two-thirds majority in the National Assembly as well as a supporting vote by six of the nine provinces represented in the National Council of Provinces.

29. The 1996 Constitution has been widely distributed in an effort to give effect to its values of an open and democratic society and to promote new values underpinning it, particularly human rights values. In 1997, the Constitution was printed in convenient pocket-size booklets and some seven million copies were distributed. It was the largest distribution campaign undertaken to date in South Africa. The Constitution has also been made available to the visually impaired in braille and on cassette tape and compact disc. The distribution campaign was closely followed by a R1-million awareness campaign to promote a culture of human rights in South Africa.

30. The Republic of South Africa is a constitutional democracy based on an explicit recognition of the separation of powers between the executive, legislature and judiciary. These three branches of government carry out functions as outlined in the Constitution and in legislation enacted by Parliament based on the principle of co-operative governance. Structurally, government is arranged at three levels, namely, the national, provincial and local government. The country is divided into nine provinces, each with its own provincial legislature. All structures of government derive their authority from the Constitution, which is the supreme law of the land. No law or government action can supersede the provisions of the Constitution.

B. Political structure

31. South Africa's national and provincial elections take place every five years and have done so democratically since 1994. Voters vote for a political party, not individuals. The political party gets a share of seats in Parliament in direct proportion to the number of votes it received in the election. Each party then decides on members to fill the seats it has won. In other words, it is a proportional representation (PR) voting system.

32. National government makes and carries out laws and policies for the whole country. It is made up of Parliament, led by the Speaker, and National Government, led by the President and Ministers.

33. Provincial governments make and administer laws and policies that affect the province only. Each provincial government comprises a Legislature led by the Speaker and a Provincial Government led by the Premier and Members of the Provincial Executive Council.

Table 14
Election statistics

Registered political parties at national level (2011)	113 registered political parties
Voter turnout in 2009 elections	77.3%
Votes compared to seats in 2009 national elections	ANC 65.90%, DA 16.66%, COPE 7.72%, IFP 4.55%, other parties 5.17%

Table 15
Percentage of registered voters

Voting age population (18 years and older)	*2008/9 Survey*	*2010/11 Survey*
In possession of legitimate bar-coded ID	98%	97%
Registered as a voter	73%	80%
Those not registered who intend to register soon	76%	70%

Table 16
Voter registration statistics, October 2011

Age group	*Male*	*Female*
18-19	181,391	207,980
20-29	2,506,397	2,904,680
30-39	2,805,311	3,058,098
40-49	2,163,013	2,583,158
50-59	1,537,716	1,916,578
60-69	844,965	1,154,418
70-79	377,270	701,186
80-89	148,491	380,728
Total	**10,564,554**	**12,906,826**

34. Concerning voting irregularities, very few voters (13%) thought irregularities had occurred during the 2006 local government elections. The majority of voters (86%) have not personally experienced any form of irregularity, including intimidation or interference by party officials.

Media

35. Government censorship during the apartheid era severely hampered the media industry. Post-1994 saw the enactment of a new constitution with a Bill of Rights guaranteeing that every citizen has the right to freedom of expression. The Bill of Rights includes freedom of the press. The Independent Broadcasting Authority (IBA) was established in January 1994 in terms of the Independent Broadcasting Authority Act 153 of 1993. The introduction of an independent regulator with constitutionally guaranteed independence was a significant step forward for the sector.

Radio

36. A large proportion of the radio and television audience is found in Gauteng and KwaZulu-Natal provinces, which is proportional to the population distribution. Northern Cape Province has the lowest radio and television audience.

37. There are three types of radio stations:

- Public radio stations
- Private commercial radio stations and
- Community radio stations

Public radio stations:

38. The radio industry is dominated by the South African Broadcasting Corporation (SABC) in terms of the number of radio stations. The SABC has 18 radio stations, and accounts for about 41.6% of the total radio audience.

Private commercial radio stations:

39. There are 13 private commercial radio stations, all of which are regional or provincial stations. They have 16.5% of the total radio adult audience. There are also three other licensed commercial radio stations in areas called "secondary markets". These three radio stations are majority-owned by HDI (Historically Disadvantaged Individuals).

Community radio stations:

40. There are 126 community radio stations, of which 87 stations are on-air. The community radio audience represents 4.6% of the total radio audience.

Television

41. There are 11.1 million TV households in South Africa.

42. There are three kinds of television stations:

- Public television stations
- Private commercial television stations and
- Community television stations

Public television stations:

43. The SABC has three terrestrial television channels (SABC1, 2 and 3), with an audience accounting for 69.3% of the total television audience.

Private commercial television stations:

44. E.tv is the only privately owned free-to-air commercial terrestrial television station, with an audience of 18.1 million that represents 22.3% of the total viewing audience. MultiChoice is the main provider of pay TV and satellite broadcasting services. It owns M-Net (Pty) Ltd and the digital satellite bouquet on DSTV. The current audience for M-Net is 1.97 million and for DSTV, 4.76 million.

Community television stations:

45. The past 10 years have seen a slow evolution of community television in South Africa, and it is now poised to become an important media player. There are four licensed community television stations in South Africa: Soweto Community TV in Johannesburg; Bay Television Station in Durban; Cape Town Community TV; and The Trinity Broadcasting Network (TBN), licensed for terrestrial broadcasting in the Eastern Cape and also distributed by satellite on DSTV.

Print Media

46. The print industry is dominated by a few large companies that own and control numerous national newspapers, local newspapers and magazines across the country.

47. There are several independently-owned newspapers. However, the majority are owned by four large publishing groups: Avusa Publishing, Naspers (Media24), Independent News and Media, and Caxton/CTP. The national newspaper readership is 15.2 million; magazine readership stands at 12.6 million.

48. New media include online media (Internet websites) and mobile-based media (mobisites). New media are growing rapidly and increasingly gaining a significant portion of advertising. Most print media (mainstream national newspapers and magazines in particular) are also represented in the New Media platform.

C. The Executive

49. The Executive consists of the President, the Deputy President and the Cabinet ministers at national level, and the Premier and Members of the Executive Councils (MECs) at provincial level. It also includes government departments and civil servants. It is the responsibility of the Executive to run the country and to make policy in the best interests of the citizens and in terms of the Constitution. The Executive is empowered to implement legislation, develop and implement policy, direct and co-ordinate the work of all the government departments, prepare and initiate legislation, and perform other functions as called for by the Constitution or legislation. However, the Executive cannot pass laws, but may propose to the Legislature new laws and changes to existing laws.

50. The President is Head of State and is the head of the national Executive, also referred to as Cabinet. The President is entrusted with upholding, defending and respecting the Constitution as the supreme law of the land. As head of the Executive, the President is also the Commander-in-Chief of the defence force. The President is elected by the National Assembly during the first sitting of the Assembly. Once elected as President, she/he ceases to be a Member of Parliament and must be sworn into office within five days. The President of the Constitutional Court presides over the President's election or designates another judge to do so. If the Presidency is empty, then the Constitutional Court President must set a date within 30 days in which the position will be filled. The President may be removed from office by a resolution of the National Assembly adopted with a supporting vote of two-thirds of its members. The only grounds for removal are a serious violation of law, serious misconduct, or inability to perform the functions of office. Removal on either of the first two grounds deprives the President of all benefits of office and prevents him from holding any public office again.

51. The President appoints the Deputy President from the Members of the National Assembly and may also dismiss him or her. The Deputy President assists the President in the running of government. The President has the power to appoint Cabinet Ministers and may also dismiss them. Ministers are, however, accountable to the National Assembly for their actions and those of their departments, and they must act according to government policy. Ministers also provide Parliament with regular and full reports about matters for which they are responsible. Members of the Cabinet act according to a code of ethics created by the President pursuant to the principles and framework established by the Executive Members' Ethics Act 82 of 1998. This Act stipulates that they may not do any other paid work, have conflicts of interests between their official and private capacities, and must not act in any way that is inconsistent with their offices or use their position or any information entrusted to them for the improper enrichment of anybody. Although the decision in *President of the Republic of South Africa v. Hugo 1997 (4) SA 1 (CC)* was based

on provisions of the Interim Constitution, it is clear that presidential actions are amenable to judicial review.

52. The Executive in each province is called the Executive Council and is headed by the Premier. Members of Executive Councils (MECs) are accountable to their Legislatures in the same way as the Cabinet is accountable to Parliament. The Premier is elected by the Members of that Provincial Legislature (MPLs) from amongst themselves at the first sitting of that legislature after the election. MECs are accountable to their Premiers. Like Ministers, MECs are responsible for departments. These provincial departments deal only with those matters that provinces are allowed to control or those over which they share control with national government. It is important to highlight that there is still no formal structure to facilitate intergovernmental relations between the national and provincial executive. Ministers and MECs do meet informally, however, in what is known as MINMEC. This is a meeting between a Minister and the nine provincial MECs who deal with the same portfolio. MINMEC plays a meaningful role in the process of co-operative government.

53. However, it is the responsibility of national government to build the administrative capacity of the provinces. If a province is not performing properly, national government can take over a province's responsibilities to maintain established service standards, economic unity or national security or to prevent a province from acting in ways that harm the interests of another province or the country as a whole. If Cabinet intervenes in a province, it must table notice of this in the National Council of Provinces (NCOP) within 14 days of having intervened. There are a number of provisions (outlined in section 100 of the Constitution) to ensure that national supervision of a provincial administration is strictly monitored by the NCOP. In the same way, provincial governments are allowed to administer the affairs of local governments that are not performing properly. Here, too, the NCOP is responsible for monitoring such an intervention.

D. Parliament

54. The legislative authority of the national sphere of government is vested in Parliament. The national legislative authority, as vested in Parliament, confers on the National Assembly the power, inter alia, to amend the Constitution and pass legislation with regard to any matter. The Constitution, however, regulates the powers of the National Assembly in as far as constitutional amendments are concerned, for example, by requiring special majorities for the passage of a bill amending the Constitution. Parliament consists of the National Assembly and the National Council of Provinces (NCOP). The President may summon Parliament to an extraordinary sitting at any time to conduct special business. The seat of Parliament is in Cape Town, but an Act of Parliament enacted in accordance with section 76(1) and (5) may determine that the seat of Parliament is elsewhere.

55. The National Assembly is elected to represent the people and ensure government by the people under the Constitution. It does this by: choosing the President, providing a national forum for public consideration of issues, passing legislation and scrutinising and overseeing Executive action. Members of the National Assembly can change the government by passing a vote of no-confidence in the President and/or Cabinet. The National Assembly must have a maximum of 400 and a minimum of 350 Members of Parliament (MPs). Members are elected to the National Assembly through an electoral system based on proportional representation. The Constitution makes it clear that the current electoral system can be changed by a new law, provided that the new electoral system results, in general, in proportional representation. This means that candidates are appointed from party lists in proportion to the number of votes the party wins in the

elections. So, if a party wins half the votes, for example, it will hold half the seats in the National Assembly.

56. The NCOP ensures that the nine provinces and local government have a direct voice in Parliament when laws are made. It represents the provinces to ensure that provincial interests are taken into account in the national sphere of government. It does this mainly by participating in the national legislative process and providing a national forum for public consideration of issues affecting the provinces. The NCOP also has an important role to play in promoting national unity and good working relations between national, provincial and local government. While the delegates in the NCOP represent their political parties, they also have the important duty of representing their provinces as a whole. Each province has ten delegates no matter how big or small the province, thus guaranteeing a balance of interests among the provinces. There are six permanent and four "special" non-permanent delegates in each delegation. Each is headed by the Premier (as one of the special delegates) or a substitute for him/her when the Premier is not available. The delegation must reflect the proportional strength of the various parties in the province.

57. In the National Assembly, Portfolio Committees shadow government departments: for each government department or portfolio there is a portfolio committee. For example, the Portfolio Committee on Human Settlements addresses issues related to the Department of Human Settlements. The NCOP has equivalent Committees, known as Select Committees; unlike the National Assembly committees, there is not always one committee per government department or portfolio but a cluster instead. For example, the Security and Justice Select Committee deals with the portfolios of Justice, Safety and Security, as well as Defence.

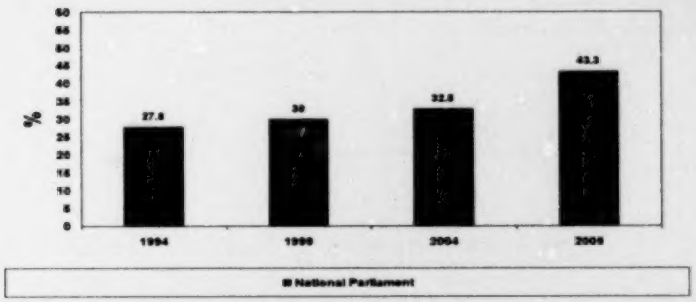
58. Chapter 12 of the Constitution provides for the establishment of the House of Traditional leaders, which formally came into being with the National House of Traditional Leaders Act 10 of 1997 (the NHTL Act), now repealed. The institution, status and role of traditional leadership are according to customary law. The Council advises the national government on the role of traditional leaders and on African customary law to promote the role of traditional leadership within a democratic constitutional dispensation. The House is there to enhance cooperation between the National House and the various Houses with a view to addressing matters of common interest and enhancing unity and understanding amongst traditional communities. A number of departments have put in place legislation that clearly defines the role of traditional leaders in the areas of justice, in the establishment of traditional courts and the administration of tribal land. Numerous pieces of legislation have been passed and a variety of programmes implemented to ensure that traditional leadership makes an important contribution to the development of society. The new National House of Traditional Leaders Act 22 of 2009 provides for the establishment of the National House of Traditional Leaders and determines the powers, duties and responsibilities of the House.

Table 17
Distribution of seats in Parliament in the National Assembly per political party, 2009

Political Party	*Number of seats*	*Percentage*
ANC	264	66
DA	67	16.75
COPE	30	7.5
IFP	18	4.5
UDM	4	1
ID	4	1

Political Party	*Number of seats*	*Percentage*
VF+	4	1
ACDP	3	0.75
UCDP	2	0.5
AZAPO	1	0.25
APC	1	0.25
PAC	1	0.25
MF	1	0.25
Total	**400**	**100**

Table 18
Women as members of Parliament in the National Assembly



E. The Judiciary

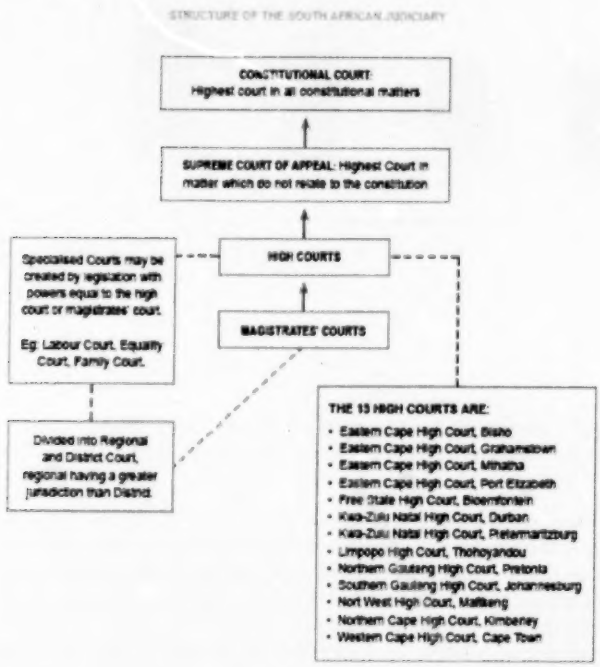
59. The judicial organs consist of the Constitutional Court, the Supreme Court of Appeal, High Courts, special superior courts, regional courts, magistrates' courts and the small claims court.

60. The Constitutional Court, situated in Johannesburg, is the highest court in all constitutional matters. It is the only court that may adjudicate disputes between organs of state in the national or provincial sphere concerning the constitutional status, powers or functions of any of those organs of state, or that may decide on the constitutionality of any amendment to the Constitution or any parliamentary or provincial bill. The Constitutional Court makes the final decision on whether an Act of Parliament, a provincial Act or the conduct of the President is constitutional. It consists of the Chief Justice of South Africa, the Deputy Chief Justice and nine Constitutional Court judges.

61. A case can reach the Constitutional Court in a variety of ways: as the result of an appeal from a judgment of the High Court or the Supreme Court of Appeal; through a direct application to the Court, asking it to sit as a court of first and last instance because of the

urgency of the matter; or as the result of the lower court declaring a piece of legislation invalid, which requires confirmation by the Constitutional Court. However, the Court has the discretion whether or not to hear a matter; an exception is where an Act has already been declared invalid and the Court is required to confirm the finding. Most cases that reach the Constitutional Court start in the High Court, which has the power to grant various remedies and which can declare legislation invalid. Any decision that invalidates provincial or parliamentary legislation or any conduct of the President, however, must be confirmed by the Constitutional Court before it has effect.

62. If the High Court rules against an application, the Constitutional Court may be approached on appeal. Since the Court may hear only constitutional matters, an applicant must show that the case concerns a constitutional matter. The Constitutional Court judges will decide if an important principle relating to the interpretation of the Constitution has been raised and will consider whether there is a reasonable prospect that the appeal may succeed. But there is no automatic right of appeal. If the Court decides to grant leave to appeal, or if it is unsure and wishes to hear argument on whether leave to appeal should be granted, the case is set down so that argument from the parties can be heard. Each party submits written submissions before the date of argument so that the judges can familiarise themselves with the case and the position taken by each party. The Constitution requires that a matter be heard by a quorum of at least eight judges. In ordinary practice, all 11 judges hear every case. If any judge is absent for a long period or a vacancy arises, an acting judge may be appointed.


STRUCTURE OF THE SOUTH AFRICAN JUDICIARY
CONSTITUTIONAL COURT:
Highest court in all constitutional matters
SUPREME COURT OF APPEAL: Highest Court in matter which do not relate to the constitution
HIGH COURTS
MAGISTRATES' COURTS
Specialised Courts may be created by legislation with powers equal to the high court or magistrates' court.
Eg: Labour Court, Equality Court, Family Court.
Divided into Regional and District Court, regional having a greater jurisdiction than District
THE 13 HIGH COURTS ARE:
• Eastern Cape High Court, Bisho
• Eastern Cape High Court, Grahamstown
• Eastern Cape High Court, Mthatha
• Eastern Cape High Court, Port Elizabeth
• Free State High Court, Bloemfontein
• Kwa-Zulu Natal High Court, Durban
• Kwa-Zulu Natal High Court, Pietermaritzburg
• Limpopo High Court, Thohoyandou
• Northern Gauteng High Court, Pretoria
• Southern Gauteng High Court, Johannesburg
• Nort West High Court, Mafikeng
• Northern Cape High Court, Kimberley
• Western Cape High Court, Cape Town

63. In proceedings before the Constitutional Court other interested parties may ask to be joined in proceedings or be admitted as *amicus curiae* (friends of the court). They, too, are allowed to make written submissions and sometimes give oral argument, if directed by the chief justice to do so. As for direct access, section 167 of the Constitution allows a person,

"when it is in the interests of justice and with leave of the Constitutional Court", to bring a matter directly to the Constitutional Court or to appeal directly to the Constitutional Court from any other court. This procedure is ordinarily permitted only in exceptional circumstances. The Court does not hear evidence or question witnesses. As a court that functions largely as a court of appeal, it considers the record of the evidence heard in the original court that heard the matter. A result, the Court works largely with written arguments presented to it. The hearings are intended to tackle difficult issues raised by the parties' arguments.

64. The Supreme Court of Appeal (SCA), situated in Bloemfontein in the Free State, is the highest court in respect of all other matters. It consists of the President and Deputy President of the Court, as well as a number of judges of appeal determined by an Act of Parliament. The Supreme Court Appeal has jurisdiction to hear and determine an appeal against any decision of a high court. Decisions of the Court are binding on all lower courts. The court comprises of 25 judges, including its president. According to the Constitution, the Supreme Court of Appeal functions only as a court of appeal, may decide any matter on appeal and is, except for constitutional matters, the highest court of appeal. The Supreme Court sits in panels of five or three judges, depending on the nature of the appeal. Judges of the Supreme Court are allowed to write individual opinions, and where there is a difference in opinion between them, there often is more than one judgment in the matter. The Supreme Court of Appeal has constitutional jurisdiction, but the Constitutional Court is the highest court in all constitutional matters. The Supreme Court of Appeal may make an order concerning the constitutional validity of an Act of Parliament, a provincial Act or any conduct of the President, but an order of constitutional invalidity has no force unless it is confirmed by the Constitutional Court.

65. Judges of the Supreme Court of Appeal are appointed by the President of the Republic on the advice of the Judicial Service Commission. Anyone who is appropriately qualified and a fit and proper person may be appointed as a judge. By convention, judges of the court are appointed from the ranks of High Court judges. The need for the judiciary to reflect broadly the racial and gender composition of the country is considered when judicial officers are appointed.

66. A High Court has jurisdiction in its own area over all persons residing or present in that area. These courts hear matters that are of such a serious nature that the lower courts would not be competent to make an appropriate judgment or to impose a penalty. Except where a minimum or maximum sentence is prescribed by law, their penal jurisdiction is unlimited and includes handing down a sentence of life imprisonment in certain specified cases.

67. The Land Claims Court and the Labour Court have the same status as the High Court. The Land Claims Court hears matters on the restitution of land rights that people lost after 1913 as a result of racially discriminatory land laws. The Labour Court adjudicates matters relating to labour disputes. Appeals are made to the Labour Appeal Court. Decisions of the Constitutional Court, the SCA and the high courts are an important source of law here. The Land Claims Court and the Labour Court are required to uphold and to enforce the Constitution, especially the Bill of Rights, which is binding on all state organs and all persons. The courts are also required to declare any law or conduct that is inconsistent with the Constitution to be invalid, and to develop common law consistent with the values of the Constitution as well as the spirit and purpose of the Bill of Rights.

68. The Minister of Justice and Constitutional Development may divide the country into magisterial districts and create regional divisions consisting of districts. Regional courts are then established per province at one or more places in each regional division to hear matters within their jurisdiction. The Jurisdiction of Regional Courts Amendment Act 31 of 2008 empowers regional magistrates to preside in civil matters. Processes are under way for the

implementation of this Act. Primary among these processes is the need to build capacity at regional-court level to deal with civil and divorce matters. The divorce courts will be subsumed under the regional-court divisions. This will address the jurisdictional challenges in terms of which litigants have to travel long distances to obtain legal redress.

69. The formal training of magistrates and legal practitioners around this legislation and other areas of judicial work will be the responsibility of the newly-established South African Judicial Education Institute. Preparations were at an advanced stage in October 2009 for the institute to commence its work. The Jurisdiction of Regional Courts Amendment Act (2008) will, in the medium to long term, reduce the workload in the High Courts. In terms of the Act, divorce and other family-law matters and civil disputes of an amount determined from time to time will be within the jurisdiction of regional courts. This will reduce the cost of litigation and thus increase access to justice. There are nine regional court presidents and 343 regional court magistrates.

70. Magisterial districts have been grouped into 13 clusters headed by chief magistrates. This system has streamlined, simplified and provided uniform court-management systems applicable throughout South Africa in terms of judicial provincial boundaries. It has also facilitated the separation of functions pertaining to the judiciary, prosecution and administration; enhanced and developed the skills and training of judicial officers; optimised the use of limited resources in an equitable manner; and addressed imbalances in the former homeland regions. In terms of the Magistrates' Act 90 of 1993, all magistrates in South Africa fall outside the ambit of the Public Service. The aim is to strengthen the independence of the judiciary. Although regional courts have a higher penal jurisdiction than magistrates' courts (district courts), an accused cannot appeal to a regional court against the decision of a district court, only to the High Court. By mid-2009, there were 366 magisterial districts and main magistrates' offices, 80 branch courts and 282 periodical courts in South Africa. There were 1,906 magistrates in the country, including regional court magistrates.

71. Small claims courts have been established in terms of the Small Claims Court Act 61 of 1984 to adjudicate small civil claims. These courts are created to eliminate the time-consuming adversarial procedures before and during the trial of these claims. The limit of civil cases is R7,000 – this amount is determined by the Minister from time to time in the Government Gazette. Matters within small claims courts are presided over by commissioners who are usually practising advocates or attorneys, legal academics or other competent persons. The service is voluntary as no fees are paid to the commissioners. In 2008/09, the Department of Justice and Constitutional Development appointed 114 commissioners and 113 advisory board members to assist small claims courts. Neither the plaintiff nor the defendant may be represented or assisted by counsel at the hearing. The commissioner's decision is final and there is no appeal to a higher court; only a review process is allowed. By June 2009, there were 188 small claims courts. The Department, in partnership with representatives of the legal fraternity and the Swiss Agency for Development and Cooperation, was in the process of finalising manuals for commissioners for small claims and for court officials; this was to be followed by training programmes in conjunction with the Justice College.

F. The common law, civil law and indigenous law in South Africa

72. South Africa has a mixed legal system that has been influenced by a number of distinct legal traditions. The principal strands within the legal system are civil law, common law and customary law. The relationship between these three strands has been fairly complex. The civil law system in South Africa draws largely from the Dutch law, while the common law is mainly influenced by the British common law. African customary law also

plays a crucial role in the legal system. The influence of the common law is most apparent in procedural law, law of contract and law of evidence, while the Dutch influence is most apparent in substantive private law, for example, delict (tort), the law of persons and the law of things.

73. The common law is distinctive for its reliance on precedent. This means that courts look to similar previous cases to resolve current disputes. The principle of *stare decesis* entails that judges of lower courts are obliged to follow decisions of higher courts in the courts hierarchy. Judicial precedents are thus important in the common law system and judges must, ordinarily, abide by them. The civil law is, generally, inspired by Roman law and termed Roman-Dutch law. The distinctive feature of this system of law is the fact that all laws are codified. In contrast to the common law, in the civil law system the influence of precedent is muted. In contrast to what used to obtain in the period before the adoption of the Constitution, a clear role for customary law has been envisaged by the Constitution. Provisions in the Constitution clearly direct that customary law should be a crucial part of the legal system – for example, section 30 and 31 of the Constitution entrenches respect for cultural diversity. In regard to the common law, customary law and even civil law, one guiding norm determines their applicability in South Africa. The Constitution sets the standards that all laws must comply with to be applicable in South Africa. This means, for example, that both customary and common law must be viewed through a constitutional lens for them to be applicable. Any principles of the common law or customary law which infringe the provisions of the Constitution are invalid and cannot have applicability in South Africa.

G. Non-governmental organisations

74. Non-governmental Organisations (NGOs) are usually also Non-Profit Organisations. The legal framework for not-for-profit NGOs consists of several primary tiers.

75. The first tier (establishment) allows for the establishment under statutory and common law of the following three forms of not-for-profit organisations:

- Voluntary associations, established under common law
- Non-Profit Trusts, established under statutory law and
- Non-profit Companies incorporated for a public benefit objective or an objective relating to one or more cultural or social activities, or communal or group interests, established under statutory law

76. A second tier of legislation (voluntary registration) allows any of these organisational forms to apply for the status of a Registered Non-Profit Organisation (NPO). Among other requirements, an NPO cannot distribute profits, and it must meet certain governance criteria.

77. To register an NPO, an application form and two copies of the NPO's founding document are submitted (constitution, deed of trust, or memorandum and articles of association) to the NPO Directorate located in the National Department of Social Development.

78. A third legislative tier (partial tax exemption) enables an NPO to apply for the status of Public Benefit Organisation. Among other requirements, the organisation's sole purpose must be to undertake one or more public benefit activities, carried out in a non-profit manner and with an altruistic or philanthropic intent. Public Benefit Organisations are restricted from using their resources directly or indirectly to support, advance or oppose any political party, but they are not restricted from lobbying. They are entitled to a broad range

of fiscal benefits, including partial income tax exemption, an exemption on donations tax, and, for some, an exemption on transfer duty on immovable property.

79. The fourth legislative tier (donor deductibility status) allows Public Benefit Organisations to apply for the right to receive tax-deductible donations. The Income Tax Act 58 of 1962 provides two major benefits to the not-for-profit sector: partial tax exemption for organisations that qualify as Public Benefit Organisations; and donor deductibility for contributions to those Public Benefit Organisations that carry out certain specified Public.

80. Benefit Activities ("Public Benefit Organisations with Donor-Deductible Status"). Public Benefit Organisations are also entitled to benefits with regard to donations tax, estate duty, transfer duty, and the skills-development levy. Finally, certain organisations are eligible for Value Added Tax preferences.

81. Number of registered NGOs: 1,352.[1]

H. Administration of justice

Table 19
Reported serious crimes in South Africa, 2010/2011

Broad crime type	*Number*	*Percentage*
Contact crime	638,468	35.8
Other serious crime	534,866	25.8
Property-related crime	534,451	25.8
Crime detected as a result of police action	231,842	11.2
Contact-related crimes	131,860	6.4
Total	**2,071,487**	**100**

Table 20
Reported contact crimes over a five-year period

	Incidence of crime per 100,000 of the population				
Crime category	*2006/2007*	*2007/2008*	*2008/2009*	*2009/2010*	*2010/2011*
Murder	40.5	38.6	37.3	34.1	31.9
Sexual offences	137.6	133.4	144.8	138.5	132.4
Attempted murder	42.5	39.3	37.6	35.3	31.0
Assault with intent to inflict serious bodily harm	460.1	439.1	418.5	416.2	397.3
Common assault	443.2	413.9	396.1	400.0	371.8
Robbery with aggravating circumstances	267.1	247.3	249.3	230.6	203.0
Common robbery	150.1	135.8	121.7	116.7	109.8

[1] www.prodder.org.za.

82. Contact crime involves physical contact between the perpetrators and victims. It consists of violence against the person, irrespective of the nature of such violence.

Table 21
Victims of contact crimes, 2010/2011

Contact-crime victims	*Number of reported cases*	*% of total*
Contact crimes against woman (older than 18 years)	191,842	30.05
Contact crimes against children (younger than 18 years)	54,225	8.49
Total contact crimes	**638,468**	**100**

83. South Africa has no compensation fund for victims of crime. The Law Commission of South Africa has been looking into the possibility of such a fund over the past ten years, but due to the high costs of its implementation no further progress has been made.

Table 22
Aggravated robbery statistics, 2010/2011

Reported cases of robbery	*Suspects charged*	*Percentage*
101,463	5,334	24.7

Table 23
Combined rape and sexual assault figures over a period of three years

Year	*Number*
2008/2009	54,126
2009/2010	55,097
2010/2011	56,272

84. Section 50(1)(b) of the Criminal Procedure Act 51 of 1977 provides that, after a person has been arrested and is in detention, he or she must appear before a lower court as soon as reasonably possible after arrest, but not later than 48 hours.

85. In 1995, through the case of *State v. Makwanyane and Another (CCT 3/94)*, the death penalty was declared unconstitutional and abolished as a form of criminal punishment. The last execution of a person took place in 1989.

Table 24
Number of people in prison/police cells by population group and sex, 2001

	Black	*Coloured*	*White*	*Indian*	***Total***
Female	5,226	1,063	1,598	52	**7,939**
Male	128,930	29,060	3,925	829	**162,744**
Total	**134,156**	**30,123**	**5,523**	**881**	**170,683**

Table 25
Circumstances of deaths in custody over a two-year period

Causes of death	*2005/2006*	*2006/2007*
Injuries in custody	28	31
Injuries prior to detention	85	46
Suicide	121	108
Natural causes	75	94
Total	**309**	**279**

Table 26
Criminal cases dealt with over a two-year period

	2009/2010	*2010/2011*
New cases enrolled	1,044,346	962,317
Cases disposed of (including old cases and diversions into CJA)	1,065,269	996,320
Clearance percentage	102.0%	103.5%

86. The above table shows the number of new cases that were received and the number of cases that went through the judicial system that were of a criminal nature. On average 1,673 high and lower courts sat during 2010/2011. These courts finalised 460,891 cases, which include matters finalised through alternative dispute-resolution mechanisms and diversions in terms of the Child Justice Act. The rest of the 962,317 cases disposed of were either withdrawn, struck from the roll, transferred to other courts, or resulted in warrants being issued or referrals to mental institutions.

Table 27
Backlog and outstanding cases, 31 March 2011

	Outstanding cases	*Backlog cases*	*% of backlog cases*	*Backlog cases finalised on the backlog project (and withdrawn) during April 2010-March 2011*
District courts	164,792	19,792	12%	5,813 (2,943 withdrawn)
Regional Courts	52,756	16,875	32%	5,272 (2,943 withdrawn)
High Courts	1,175	367	31.2%	
Total	**218,660**	**37,034**	**16.9%**	**11,085 (5,777 withdrawn)**

87. There are 1,250 police/security personnel per 100,000 citizens, and more than 3,000 prosecutors working in South Africa.

88. By March 2010 there were 208 permanent judges and 1,914 Magistrates (regional and district), a total of 2,122 judicial officers.

Table 28
Share of public expenditure on police/security and judiciary

	Audited			*Adjusted appropriation*
Rands (million)	*2007/2008*	*2008/2009*	*2009/2010*	*2010/2011*
Correctional services	11,122,4	12,822,6	13,687,3	15,427,5
Defence and military veterans	25,180,1	27 801,3	31,324,2	30,442,6
Justice and Constitutional Development	7,194,0	8,244,4	9,653,5	10,787,3
Police	36,525,9	41,635,2	47,662,5	53,529,7

III. General framework for protection and promotion of human rights

A. Acceptance of international human rights norms

Table 29
Main international human rights conventions and protocols

Convention	*Date ratified*
International Covenant on Civil and Political Rights (ICCPR)	10/12/1998
First and Second Optional Protocols to the ICCPR	10/12/1998
International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)	10/12/1998
Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)	15/12/1995
Optional Protocol to the CEDAW	06/05/2002
Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	10/12/1998
Convention on the Rights of the Child (UNCRC)	16/06/1995
Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography	30/06/2003
The Optional Protocol to the UNCRC on the Involvement of Children in Armed Conflict	24/09/2009
Convention on the Rights of Persons with Disabilities	30/11/2007
Optional Protocol to the Convention on the Rights of Persons with Disabilities	30/11/2007

89. South Africa has signed but not ratified the optional protocol to CAT (20/09/2006) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (3/10/1994); the ratification of both treaties still in process.

90. Reservations and declarations made by South Africa on a number of instruments are reflected below.

Reservations and declarations:

CAT:

Declaration:

"[The Republic of South Africa declares that] it recognises, for the purposes of article 30 of the Convention, the competence of the International Court of Justice to settle a dispute between two or more State Parties regarding the interpretation or application of the Convention, respectively."

Declarations re: articles 21 and 22:

"The Republic of South Africa declares that:

(a) it recognises, for the purposes of article 21 of the Convention, the competence of the Committee Against Torture to receive and consider communications that a State Party claims that another State Party is not fulfilling its obligations under the Convention;

(b) it recognises, for the purposes of article 22 of the Convention, the competence of the Committee Against Torture to receive and consider communications from, or on behalf of individuals who claim to be victims of torture by a State Party."

ICCPR:

Declaration re: article 41:

"The Republic of South Africa declares that it recognises, for the purposes of article 41 of the Covenant, the competence of the Human Rights Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under present the Covenant."

ICERD:

Declaration re: article 14:

"The Republic of South Africa:

(a) declares that, for the purposes of paragraph 1 of article 14 of the Convention, it recognises the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within the Republic's jurisdiction claiming to be victims of a violation by the Republic in any of the rights set forth in the Convention after having exhausted all domestic remedies; and

(b) indicates that, for the purposes of paragraph 2 of article 14 of the Convention, the South African Human Rights Commission is the body within the Republic's national legal order which shall be competent to receive and consider petitions from individuals or groups of individuals within the Republic's jurisdiction who claim to be victims of any of the rights set forth in the Convention."

Optional Protocol to CRC:

Declaration:

"a) The South African National Defence Force (SANDF) is a voluntary force and therefore there is no compulsory conscription into the SANDF;

b) The process of recruitment in the SANDF is initiated through advertisement in the national newspapers and the minimum age limit of 18 years is stipulated by law as a requirement;

c) The induction of all recruits is conducted in public;

d) All recruits are required to present a national identity document which states their date of birth and where appropriate, their educational records; and

e) All recruits undergo a rigorous medical examination in terms of which prepubescence would be noticed, and any recruit determined to be underage is routinely declined from recruitment."

Table 30
Other UN human rights and conventions

Convention	*Date ratified*
Convention on the Prevention and Punishment of Genocide	10/12/1998
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime	20/02/2004
Rome Statute of the International Criminal Court	27/11/2000
Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others	10/10/1951

Table 31
Geneva Conventions and other treaties on international humanitarian law

Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field	*30/09/1896*
Geneva Convention (III) relative to the Treatment of Prisoners of War	23/06/1931
Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)	21/11/1995
Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)	21/11/1995
Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and On Their Destruction	26/06/1998

Table 32
Regional human rights conventions

Document	*Date deposited*
OAU convention governing the specific aspects of refugee problems in Africa	15/01/1996
African charter on human and people's rights	09/07/1996
African charter on the rights and welfare of the child	21/01/2000
Protocol to the African charter on human and people's rights on the establishment of an African court on human and people's rights	03/07/2002
OAU convention on the prevention and combating of terrorism	18/11/2002
Protocol to the African charter on human and people's rights on the rights of women in Africa	14/01/2005
African convention on preventing and combating corruption	07/12/2005
African charter on democracy, elections and governance	24/01/2011
African youth charter	08/07/2009

B. Legal framework for the protection of human rights at the national level

91. One must recall that for many years apartheid took away the human rights of most people living in South Africa. The majority of the people did not have a say in how they were governed. Security laws gave the police enormous powers to arrest and detain people. The laws on censorship were used to silence the oppressed populace. Racially discriminatory policies meant that most people got third-rate education and health care. These are just a few examples of how people's human rights were abused within South Africa.

92. The 1996 Constitution South Africa completely rejects the discriminatory policies that had hitherto characterised South Africa. The Bill of Rights is the cornerstone of democracy in South Africa. It enshrines the rights of all people in South Africa and affirms the democratic values of human dignity, equality and freedom. When interpreting the Bill of Rights, a court must consider international law. Provided they are consistent with it, the Bill of Rights does not deny the existence of other rights or freedoms recognised or conferred by common law, customary law or legislation, as long as they are consistent with it. Limitations on rights must comply with the stipulations of section 36 of the Constitution.

93. A key theme underlying the South Africa Constitution is equality, which means everyone is equal before the law and has the right to equal protection and benefit of the law. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons or categories of persons disadvantaged by unfair discrimination may be taken. However, no one may unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. No person may unfairly discriminate directly or indirectly against anyone on one or more grounds listed in section 9(3) of the Constitution. There is a supervening obligation on the Government to enact legislation to prevent or prohibit unfair discrimination. Several institutions have been established to support the realisation of human rights in South Africa.

94. Other human rights protected in the Constitution are: the right to life, privacy, right to religion, freedom from slavery and forced labour, freedom of expression, freedom of movement, freedom of trade, the right to fair labour practices, the right to have access to

adequate housing, the right to access water, food, health care and social security, the right to education, the right to use the language and participate in the cultural life of one's choice, and the right to access of information as well various children's rights.

95. The Government complies with international obligations by enacting or amending domestic legislation to ensure compatibility with its treaty obligations. The Government makes such changes following normal parliamentary procedures. Under the Constitution, provisions of an international treaty cannot be invoked before, and directly enforced, by the courts, other tribunals or administrative authorities. The treaties must be translated into South African laws or administrative regulations before they could be enforced by the courts. This position was confirmed in *AZAPO and Others v. President of the Republic of South Africa and Others 1996 (8) BCLR 1015 (CC)*. South Africa thus follows a dualist approach to the application of international law in domestic tribunals.

96. In 1994 Parliament, through the South African Human Rights Commission Act 54 of 1994, established the South African Human Rights Commission (SAHCR) to take up the challenge of ensuring that the ideals expressed in the Constitution are enjoyed by all in South Africa. The SAHRC is made up of two sections: the commission, which sets out policy, and a secretariat, which implements policy. The SAHRC is an independent body and accountable only to the Constitution and Parliament. It submits annual reports of its activities to Parliament.

97. As set out in section 5 of the Human Rights Commission Act, the SAHRC has established standing committees to advise and assist it in its work. It appoints the members of the standing committees, each of which is chaired by a commissioner. The SAHRC has also established provincial offices to ensure its services are widely accessible. It works with government, civil society and individuals, both nationally and abroad, to fulfil its constitutional mandate. In terms of Section 184(1) of the Constitution, the SAHRC must promote respect for human rights and a culture of human rights, as well as promote the protection, development and attainment of human rights. The operations of the SAHRC consist of the following programmes: strategic management and support services; commissioners; education, training and public awareness; legal services, research and documentation; parliamentary liaison and legislation and treaty body monitoring; information and communication; special programmes, coordinators, and a civil-society advocacy project.

98. The Commission on Gender Equality (CGE) was established in terms of the 1996 Commission of Gender Equality Act 39 of 1996. The CGE is an independent body and accountable only to the Constitution and Parliament. Its mandate is to protect men and women who complain that they have been discriminated against due to their gender or sex. The Commission advises lawmakers on laws that affect equality between men and women, and on the position of women as citizens. The Commission reports to Parliament annually on its activities.

99. The Truth and Reconciliation Commission (TRC) was based on the Promotion of National Unity and Reconciliation Act 34 of 1995. It was set up to help deal with what happened under apartheid. The conflict during this period resulted in violence and human rights abuses from all sides. No section of society escaped these abuses. The TRC was dissolved in March 2002 by way of a proclamation in the Government Gazette. The TRC handed its final report to the President in March 2003. The TRC made recommendations to government in respect of reparations to victims and measures to prevent the future violation of human rights and abuses. Four categories of recommendations were approved by the Government in June 2003 for implementation, namely:

- Final reparations: the provision of a once-off individual grant of R30,000 to individual TRC-identified victims

- Symbols and monuments: academic and formal records of history, cultural and art forms, as well as the erection of symbols and monuments to exalt the freedom struggle, including new geographic and place names
- Medical benefits and other forms of social assistance: educational assistance, provision of housing and other forms of social assistance to address the needs of TRC-identified victims
- Community rehabilitation: rehabilitating whole communities that were subject to intense acts of violence and destruction and which are still in distress

100. The South African Law Reform Commission is an independent statutory body established by the SALRC Act 19 of 1973. The SALRC and its secretariat are responsible for research in respect of the law of South Africa with a view to advising government on the development, improvement, modernisation and reform of the law of South Africa. The Government has endorsed many of the SALRC's investigations into statutory law reform. The SALRC has identified as a priority the speedy completion of the review of pre-1994 statutes, with a focus on statutes that are obsolete, redundant or that violate Section 9 of the Constitution.

101. The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act 19 of 2002 established the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (Commission). Under the Act, "Community council" means a voluntary association of persons or community organisations, based on the principle of freedom of association, that represents a cultural, religious or linguistic community and includes a cultural council envisaged by Section 185(1) (c) of the Constitution. The Commission's mandate is to contribute meaningfully and constructively to social transformation and nation-building for the attainment of a united South African nation. The Commission also promotes and develops peace, friendship, humanity, tolerance and national unity among cultural, religious and linguistic communities. The Commission has the power, as regulated by national legislation, necessary to achieve its primary objects, including the power to monitor, investigate, research, educate, lobby, advise and report on issues concerning the rights of cultural, religious and linguistic communities.

102. The Public Protector was established by the Public Protector Act 23 of 1994. The Public Protector is appointed by the President, on the recommendation of the National Assembly, in terms of Chapter Nine of the Constitution. The Public Protector is required to be a South African citizen who is suitably qualified and experienced and has exhibited a reputation for honesty and integrity. The Public Protector has jurisdiction over all organs of state, any institution in which the state is the majority or controlling shareholder, and any public entity as defined in section 1 of the Public Finance Management Act 1 of 1999. The Public Protector investigates any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice. During an investigation, the Public Protector may consider it appropriate or necessary to direct any person to appear before him or her to give evidence or to produce any document in his/her possession or under his/her control which, in the opinion of the Public Protector, has a bearing on the matter being investigated, and may examine such person for that purpose. The Public Protector is accountable to the National Assembly and must report on his or her activities and the performance of his or her functions to the Assembly at least once a year.

103. The Independent Complaints Directorate is a government department established in April 1997 to investigate complaints of brutality, criminality and misconduct against members of the South African Police Service (SAPS) and the Municipal Police Service (MPS). It operates independently from the SAPS in the effective and efficient investigation

of alleged misconduct and criminality by SAPS members. Section 53(2) of the South African Police Act 68 of 1995 stipulates that the Independent Complaints Directorate must investigate any misconduct or offence allegedly committed by a member, and that it may, where appropriate, refer such investigation to the Commissioner concerned.

104. The South African Government is committed to the African Renaissance, which is based on the consolidation of democracy, economic development and a cooperative approach to resolving the challenges the continent faces. By way of illustration, South Africa hosted the launch in 2002 of the African Union (AU), which was a step towards further unification of Africa in pursuit of socio-economic development. Former President Thabo Mbeki chaired the AU for its founding year, handing over the chair to President Joaquim Chissano of Mozambique in July 2003. In 2004, the AU decided that South Africa should host the Pan-African Parliament, and it met for its second session in South Africa. The seat of the Pan African Parliament is in Midrand, South Africa. Furthermore, by participating in UN and AU initiatives to resolve conflict and promote peace and security on the continent in, among other countries, the Democratic Republic of Congo (DRC), Burundi and Sudan, South Africa has contributed to the achievement of conditions conducive to the entrenchment of stability, democracy and faster development. A democratic South Africa thus continues to play an active role in international and multilateral organisations.

C. Framework within which human rights are promoted at the national level

105. Every year on 21 March, Human Rights day is celebrated as a public holiday. On this day in 1960 the police killed 69 people at Sharpeville during a protest against the pass laws. Many were shot in the back. The carnage made world headlines. Four days later the government banned black political organisations; many leaders were arrested or went into exile. During the apartheid era there were human rights abuses by all sides. Human Rights Day is but one step to ensure that the people of South Africa are aware of their human rights and that such abuses never again occur.

106. The Centre for Applied Legal Studies and the Centre for Human Rights are research institutions committed to the promotion of human rights in South Africa. NGOs and other institutions supporting democracy also play a role in promoting human rights in the country.

107. In addition, the Department of Justice and Constitutional Development and other departments are also responsible for promoting human rights education, and a part of their budget is utilised for this.

D. Reporting process at the national level

Table 33
Leading government departments for reporting

UN instrument	*Lead department*
ICERD	Department of Justice and Constitutional Development
ICCPR	Department of Justice and Constitutional Development
CAT	Department of Justice and Constitutional Development
CEDAW	Department of Women, Children and People with Disabilities
CRC	Department of Women, Children and People with Disabilities

108. The history of South Africa means that the country faces unique challenges in the protection and promotion of human rights. While South Africa cannot claim to have attained a full realisation of human rights for its populace, the country has in place the necessary institutions and procedures that should allow for the full realisation of human rights in the due course of events. The Government is continually working to ensure that the necessary mechanisms are in place to ensure the protection and promotion of human rights in South Africa.